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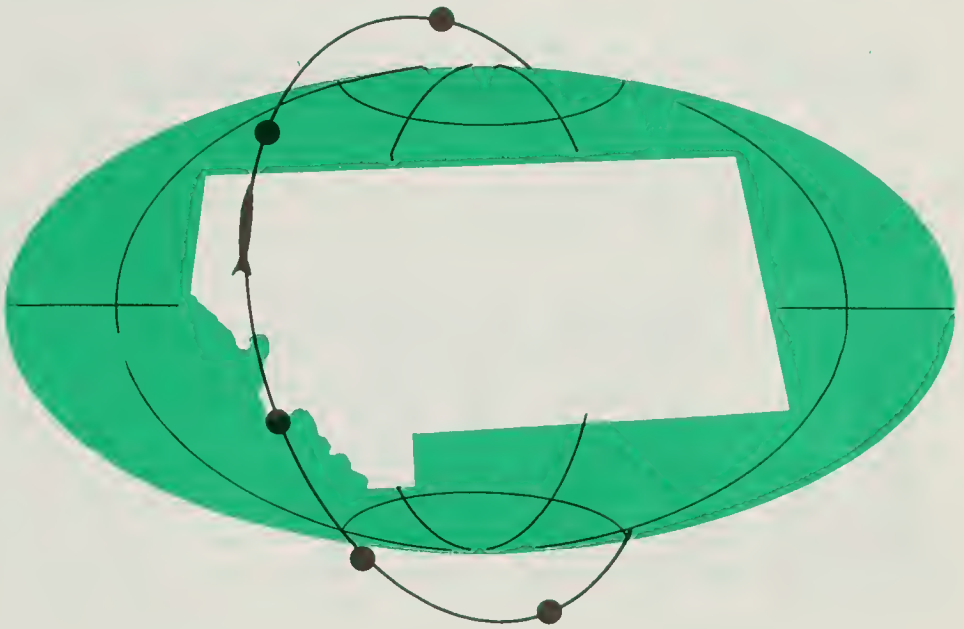
MONTANA TODAY

MONTANA DIVISION OF PLANNING AND ECONOMIC DEVELOPMENT
DEPARTMENT OF INTERGOVERNMENTAL RELATIONS
VOLUME 18 NUMBER 1, SPRING-SUMMER, 1973

Satellite Helps State . . .



Satellite systems may soon help the State of Montana in its planning activity. The state planning agency is now cooperating with the U.S. Geological Survey and the National Aeronauties and Space Administration (NASA) in use of the Earth Resources Observation System (EROS). The purpose of the program is to test and utilize remote sensing techniques for resource inventory and management, and ultimately to apply these techniques in land use planning.

The remote sensing technique uses aircraft and satellites to gather physical information using such devices as radar, television, photograph and thermal infra-red. Satellite remote sensing has the capability for rapid and detailed observation of Montana's surface.

Personnel from the Planning and Economic Development Division have attended special classes in Washington, D.C. and South Dakota to fully learn how to utilize this new potential planning technique. Tom Dundas, Chief of the Information Systems Bureau, has headed the Division's team of personnel involved in the effort.

Currently Montana plans to use the EROS Program's Earth Resources Technology Satellite (ERTS) data to compile maps for state-wide land use planning. Potentially, maps might be compiled at a larger scale for multi-county or regional planning, using enlarged ERTS photos or high altitude aerial photography. The information from the program will probably be used in the future to inventory and map important water and land resources throughout the state.

The EROS Program collects and disseminates conventional aerial photography, but now through the ERTS System and high altitude aircraft such as the U2, the capability has been largely expanded. NASA has the responsibility for launching and operating earth satellites and receiving the data from the satellite, and flying the high altitude aerial photo planes. The ERTS-1 satellite launched on July 23, 1972, was the first of a series of three satellites to be launched through 1976 for the remote sensing project. The Sky Lab project is also a part of the ERTS System.

One of the advantages of the ERTS Systems is repetitive review. The orbit of the satellite is such that every location is covered every 18 days. Abrupt changes in land use, hydrologic conditions, vegetation, snow fields, etc. can be monitored for any man-made or natural changes.

The sensing equipment aboard the satellite is capable of distinguishing between water and various land features. They can also determine distribution and vigor of plant life. Basically, the information from the EROS Program will have application in five areas: cartography and mapping; geology; mineral and land resources; geography; cultural and human resources; water resources and marine resources.

It is expected that this new planning technique will be a definite asset to the agency's expanding involvement with statewide land use planning.

SUBDIVISIONS and the LAW

Most Montanans are aware of the apparent increase in the selling and buying of land in the state, and throughout the country. This subdivision activity is not necessarily new but with the demand for space by a growing population, it is more evident.

The legislature's reaction to this was the recent passage of a new Montana Subdivision and Platting Act, introduced as SB 208. The measure repeals all previously existing subdivision regulations when it becomes effective July 1st.

The state Department of Intergovernmental Relations was given the responsibility of implementing and administering the Act through its Division of Planning and Economic Development. The division drafted the original version of the bill for the senate and helped in the formation of amendments as the act passed through the hearing and debate stages.

In essence the Act addresses divisions of land segregating two or more parcels from an original tract for transfer to persons other than the owner's relatives. At least one of the parcels involved, however, must be 10 acres or smaller in size.

The Act also includes condominiums and areas for mobile homes and camping trailers in its definition, regardless of parcel sizes.

While the state must implement and administer the Act, local governments bear the basic responsibility for adopting and enforcing local subdivision regulations. By July 1, 1974, all local governments are required to adopt subdivision regulation and provide for their enforcement.

If any city or county fails to adopt regulations, the planning division is required to set regulations for that area to be enforced by the local authorities.

To help the local governments adopt regulations the planning division is required to promulgate model subdivision rules by December 31 of this year. Since the law becomes effective July 1st, the state is setting up machinery for agency review now.

In adopting the subdivision regulations each local government must hold a public hearing with a minimum of 15 days notice in a local paper (and a maximum of 30 day notice).

After a subdivider submits a preliminary plat proposal to the local government, a response must be made within 60 days—acceptance, conditional acceptance, or rejection. During that time a public hearing must be held on the plat with 15 days prior public notice. Also, during these 60 days, time must be allotted for review by any state agencies that might be concerned with the development.

REGULATIONS

The subdivision regulations should include:

—measures providing for orderly development;
—coordination of roads, both existing and planned;
—dedication of land for roadways and utility easements;
—improvements of roads;
—adequate open spaces for travel, light, air and recreation;
—provision for adequate transportation, water, drainage and sanitary facilities;
—avoidance of congestion;
—avoidance of unnecessary environmental damage;
—avoidance of danger or injury to health, safety, or welfare by reason of natural hazards or the lack of water, drainage, access, transportation or other public services.
—avoidance of any actions or lack of actions in the areas mentioned above which would require the excessive expenditure of public funds.

An environmental assessment will be required of all subdivision plats. Existing data available from government sources may be used to satisfy these requirements, although under Health Dept. regulations additional water and sanitary data may be required.

The environmental assessment must include:

—description of all streams or surface water plus ground water that might be affected;

—description of topography, vegetation and wildlife use within the area;

—supply maps and tables showing soil types in several parts of the subdivision, and their suitability for supporting the proposed development;

—impact report on the community pertaining to public services such as education, roads, water, sewage, fire and police protection.

—other items which the planning division may specify in rules to be published.

The regulations shall also provide for summary review of subdivisions containing five or less parcels fronting on an existing public road. This is in cases where the subdivision satisfies the state health department regulations.

Variances from the regulations may be granted by the local governing body based on criteria spelled out in the local ordinance.

Park land dedication

The new law requires that 1/9 of a platted area in which any parcel is five acres or less in size be forever dedicated to the public for parks and playgrounds. If all the parcels contain more than 5 acres then 1/12 of the area must be dedicated for parks. When all parcels are 10 acres or larger, no dedication is required.

The local governing body has the right to determine suitable locations for park land. Also, for good cause, the government may accept cash in lieu of land (the cash being the value at the time the land would be dedicated) and not at the deseretion of the subdivider.

Park land requirements can also be waived if the subdivider designs the area to contain land set aside with covenants.

Finally, the subdivision law is quite explicit upon the procedures to be followed, not only by the subdivider, but by the surveyors in preparing plats for filing with county offices.

Industrial Conference Scheduled

"Rural Development in the Pacific Northwest" is the theme of an industrial conference scheduled June 24-26 at Big Sky of Montana.

The annual meeting of the Pacific Northwest Industrial Development Council will focus on economic development to stimulate the thinking and activities of overall efforts in Montana.

The speaker's schedule includes:

Changing world of economic development—Jack Chandler, Dis-VIII American Industrial Development Director

One company's role—Gary Lohn, Control Data Corp.

Industry's Social Responsibility—Perry F. Roys, Montana Planning and Economic Development division

State Policies as a means to developing rural areas—Honorable Thomas L. Judge, Governor

Why develop non-metropolitan areas—C. Dan Regan, Montana Power Co.

Industry-Developers working together—Robert Binger, Burlington Northern

Federal Government's role in rural development—Richard Smiley, Farmers Home Administration

Recreation development in the northwest—Chet Huntley, Big Sky of Montana

Russ Estes, president of PNIDC is coordinating the convention from 1820 South 7th, Bozeman.

New Ashland Sawmill

A new sawmill creating 70 fulltime jobs for Montanans is being constructed at Ashland, Montana, Governor Tom Judge announced last month after meeting with the president and other officials of Eastmont Forest Products, Inc., and State Planning and Economic Development officials.

Eastmont president, Frank Vevera, told Governor Judge construction on the $965,000 mill will begin immediately and should be completed this summer.

First year production is estimated at 12 million board feet with a potential of 16.5 million bd. ft. annually. The mill will be fully integrated with planning and cutstock operations. In addition, the firm will operate a lumber retail store at Ashland.

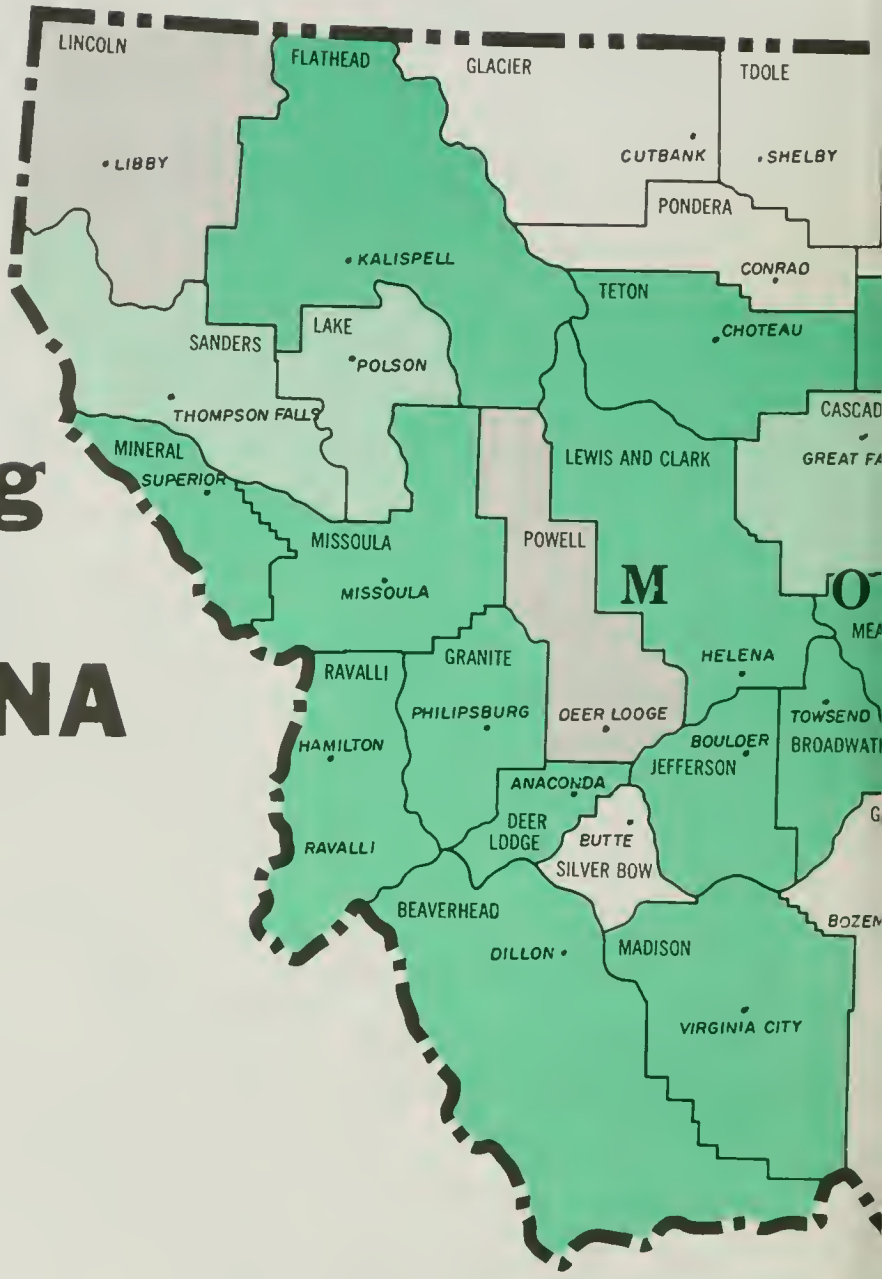
Don Ward, Denver representative of the Federal Economic Development Administration, informed Governor Judge that his agency will be supplying 50% of the project cost as business development loan.

The Governor also noted the efforts of the Rosebud County Commissioners and D. A. Davidson Co. of Great Falls in working to augment the financing through industrial revenue bonds.

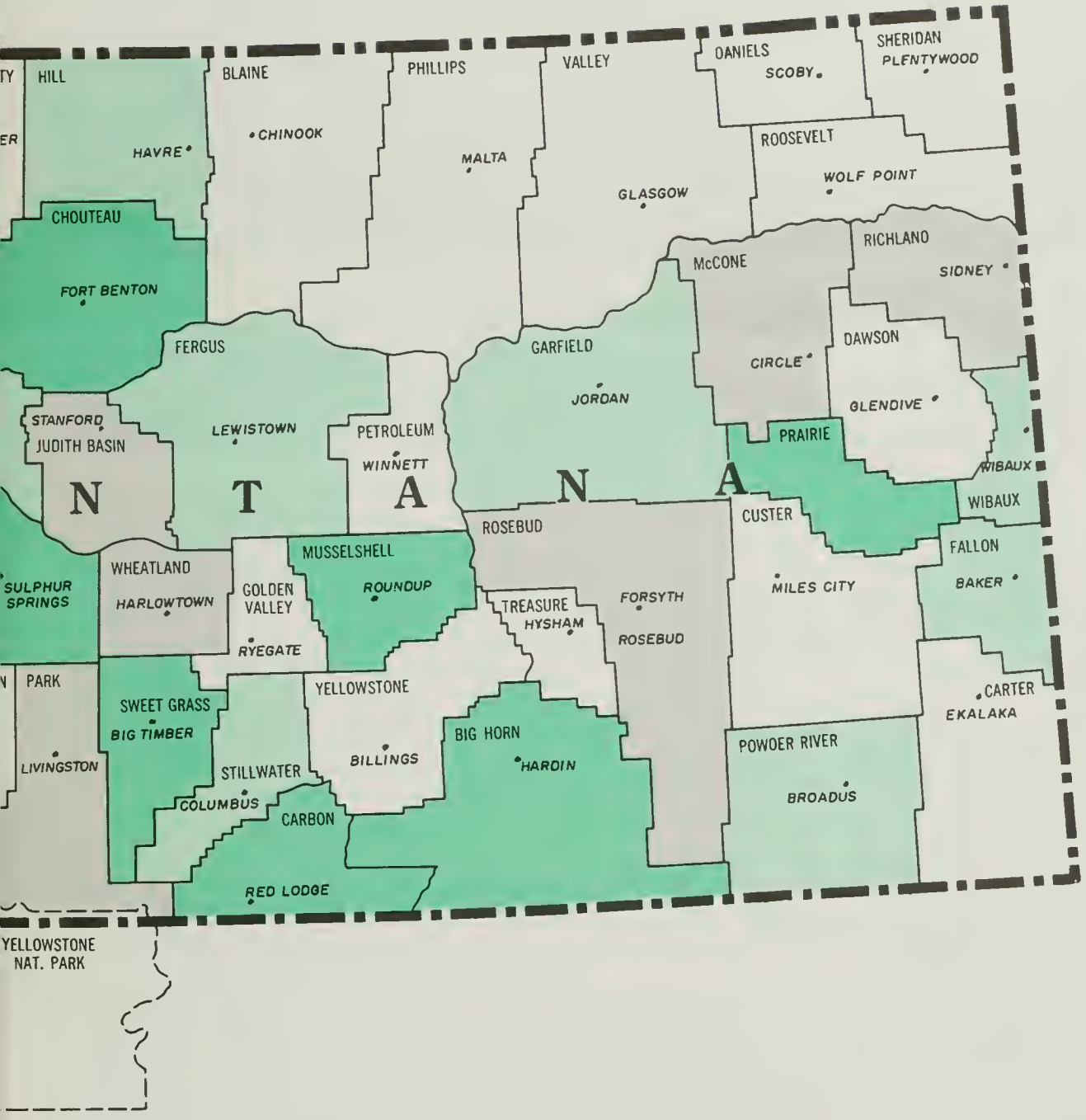
Additional support for the sawmill came from the Big Horn Economic Development Corp. which Governor Judge said deserves praise for its efforts to secure industry and employment for the Northern Cheyenne Reservation area. He noted that the majority of the 70 employees will be Northern Cheyenne Indians coming from the local area where unemployment is high. He also noted the new mill will provide a local market for the wise and productive use of the timber resource in the area.

In speaking with Governor Judge, Eastmont's Vevera said that in addition to putting up the basic capital to build the sawmill, he assured that all Montana environmental standards would be met. Company representatives had previously met with state air quality personnel.

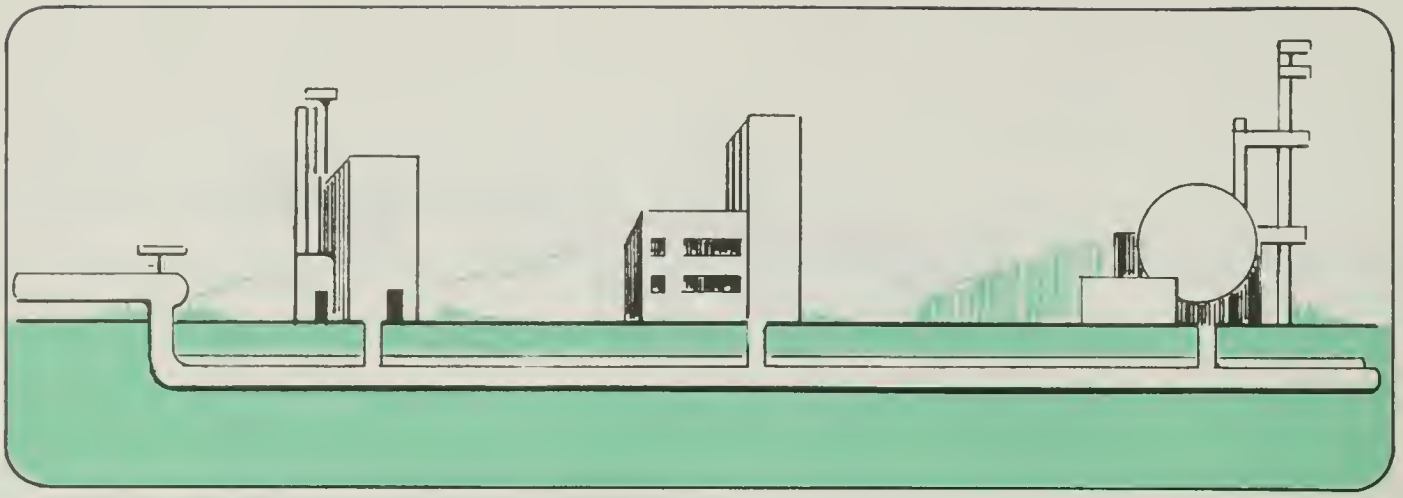
County Planning in MONTANA



- Darker green shows those 19 counties and area-wide planning organizations now functioning.
- Gray areas indicate those 8 counties which have passed resolutions to form county planning boards.
- Light green shows those 10 counties considering forming county planning boards.



The law allowing county planning boards was passed by the 1971 Legislature. All of the counties which have formed planning boards or are considering them, have taken action since that time. In the first nine months of the current fiscal year, nine counties actually formed aetive planning boards.



Coal gasification slated for Eastern Montana

Northern Natural Gas Company and Cities Service Gas Company jointly announced last month that they are examining the possibilities of a coal gasification project in the Powder River Basin area which is located in southeastern Montana and northeastern Wyoming. The project would include construction of a pipeline to transport the gas to two separate natural gas pipeline systems operated by the companies in the Midwest.

Governor Thomas L. Judge and Lt. Governor Bill Christiansen met with representatives of the companies to be briefed on the details of the announcement. The governor also outlined his proposal to the Federal Government for a $7.1 million study of environmental and socio-economic effects of the anticipated coal resource development in Eastern Montana.

The Division of Planning and Economic Development had been in contact with the companies for almost a year, beginning when the companies started preliminary studies of the gasification concept and their needs.

Equal participation

The agreement between the two companies provides for equal participation in research and development activities necessary for the eventual construction of four coal gasification plants, each capable of producing 250 million cubic feet daily of pipeline quality gas. It is anticipated that construction of the first plant will commence in 1976 and will be in operation by 1979 with the remaining plants being constructed as markets and economics warrant.

The announcement also stated that Peabody Coal Company of St. Louis has agreed to dedicate approximately 500 million tons of coal held under lease by Peabody on the Northern Cheyenne Reservation in southeastern Montana. This amount of coal is sufficient to supply two gasification plants. Officials of the companies said that negotiations are under way to obtain the rights to another 500 million tons of coal in the Powder River Basin area.

The conversion of one billion tons of coal into gas is equal to about 10 trillion cubic feet of natural gas. Northern's present natural gas reserves are 13 trillion cubic feet and Cities Service Gas Company, a subsidiary of Cities Service Company, has reserves of 8.5 trillion cubic feet dedicated to its transmission system. The mining activities associated with the project will be carried on by Peabody or other possible coal suppliers.

Northern and Cities Service jointly would construct and operate the gasification plants and the proposed pipeline, estimated to be some 700 miles in length. No decision has been made as to the route of the pipeline.

The company officials said that preliminary development activities to be carried out through 1975 will probably amount to more than $10 million, to be shared jointly by the two gas companies. These activities will include obtaining rights to coal, research and design of the gasification process and extensive environmental studies.

The company officials emphasized that construction and operation of the gasification plants and coal mining operations will be subject to approval of all governmental agencies and will conform to the environmental and esthetic standards of all of the appropriate governmental units. The companies stressed that environmental impact is of primary concern in feasibility studies now underway and will continue to be during every phase of the project.

Environment maintained

The companies indicated they intended to utilize the already proven Lurgi (German) technology of coal gasification which produces gas of about 450 BTU (British Thermal Unit) per cu. ft. Northern, Cities Service, and Peabody are participating in a methanation demonstration project now underway in Westfield, Scotland aimed at improving technology to increase the heat content of the Lurgi process gas to about 950 BTU, a heating value comparable to natural gas. The companies feel that the methanation process will prove to be technically and commercially sound within the time schedule adopted for the joint project.

Northern and Cities Service said that significant economic benefits would result in the area finally cho-

sen for the coal gasification project. It is estimated that each of the four gasification plants would employ up to 600 people. Peabody indicated the first mine would require 175 to 200 employees. Each plant will require a capital investment of about $350 million, greatly expanding the tax base of the area involved.

Representatives of the Northern Cheyenne tribe have been informed of the tentative project.

The planning division is hopeful that this development can be of benefit to Montana by providing relatively lucrative job opportunities in an area of the state that has suffered employment and population losses. Also, the recently enacted environmental protection laws, backed-up by the companies, stated willingness to maintain the environment should result in the retention of Montana's quality.

Water users are wondering what steps they should be taking to comply with the recently enacted Montana Water Use Act. Following are answers to questions people are asking, furnished by the Department of Natural Resources and Conservation (Helena 449-3634) which will administer the Act.

Will my water use right be affected?

Yes, since all Montana waters (surface, ground and geothermal) are now within one administrative system.

What should I be doing now?

Nothing. The law is effective July 1. On and after that date, three kinds of situations may require action:

1. If you intend a new water use, not started before July 1, you must file an application for a permit with the Department, using a form available from the Department or your Country Clerk and Recorder. The only exception is that, outside the boundaries of an established controlled ground-water area, a permit will be required to drill wells nor to appropriate water for domestic, agricultural, or livestock purposes if the maximum yield is less than 100 gallons per minute. However, the driller must file a well log report, and the appropriator must file a notice of completion with the Department within 60 days after completion of drilling. If the notice of completion is not filed, the water right will not be recognized.

2. If you buy land and thereby acquire a water right, you, the purchaser, must file a copy of the transferring instrument with the Department **and** the appropriate county.

3. If you want to sever a water right from the land, or effect any change, including but not limited to place of diversion, place or purpose of use or storage, you must first obtain the approval of the Department.

If you're not involved in any of the situations described, all you need do is wait until your area is selected for the court determination of existing water rights.

What is an existing water right?

A right to the use of water protected under existing law, effective until July 1, 1973. If, in the past, you've diverted water from a stream, pumped it from a well, or irrigated with flood waters, you probably have an existing right to the amount of water that you actually put to a beneficial use. However, the filing or non-filing of a claim to water does not in itself give or deny a legal right to water. The key to an existing right is beneficial use, defined in the new law to include agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power and recreational uses.

What should I do to confirm an existing right?

Nothing, now. Eventually the department will initiate a court proceeding in your area for the determination of all existing rights. Areas with the most urgent water problems will receive highest priority.

When your area is selected, ample notice will be given by newspaper publication and mail, and you will have one year to file a declaration of existing right. Required information may include the dates of appropriation and first application of the water, the amount and purpose of the water appropriated, the place and means of diversion, the place and time of use, and a true copy or the docket number of any judicial decree, notice, or other claim or evidence on which the existing right is based.

Information from the submitted declarations, together with earlier court proceedings, records of rights under the groundwater code, notices of appropriations, water resources surveys, and so on, will be compiled by the Department and submitted to

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YOU AND THE NEW WATER LAW

a District Court in the area for a determination of existing rights.

Must I go through a complete court proceeding if my water rights have already been adjudicated?

You may not have to. Copies of the court's preliminary decree, based on data gathered by the Department, will be mailed to all interested parties, and the preliminary decree will become final if no objections are filed. Certificates of water rights will then be issued by the Department, recorded by the county clerk, and forwarded to the appropriators.

What should I do if I buy water from a water association or irrigation project?

Nothing. You have a "contractual" right; it is the actual holders of the water rights who must file.

Do I contact the Department if I become involved in a controversy over water rights?

In most cases, disputes will continue to be handled by the District Courts. The Department may provide legal assistance to a Montana appropriator who becomes involved in a water controversy with a federal agency or another state.

Can I reserve water to be put to use in some future time?

Not as an individual. After July 1, the federal government, a state agency, or a political subdivision such as a town or an irrigation district may request a reservation of water.

Will I be required to install measuring devices?

The Department of Natural Resources and Conservation may require installation of measuring devices, especially in areas where water use is critical. Where not changed by the Water Use Act, previously enacted Montana law requires that measuring devices be installed on streams and ditches where a commissioner has been appointed by a district court.

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